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May 3, 1999

**BY HAND DELIVERY**

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, S. W.  
Washington, D.C. 20554

RECEIVED  
MAY 3 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Notice of Ex Parte Communication Regarding Direct  
Access to the INTELSAT System, IB Docket No. 98-192,  
60-SAT-ISP-92

Dear Ms. Salas:

On behalf of BT North America Inc., I hereby include for filing the attached written testimony of Richard Vos, Head of International Satellite Consortia for British Telecommunications plc, that was submitted on March 25, 1999 to the U.S. Senate Subcommittee on Commerce, Science, and Transportation.

Two copies of this transmittal letter and presentation are being submitted to the Secretary pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206. Please return a date-stamped copy of the enclosed (copy provided). Please contact the undersigned if you have any questions.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

By: Jeremy B. Miller  
Jeremy B. Miller

Attorneys for BT North America Inc.

Enclosures

cc: Jim Ball, Deputy Chief, International Bureau

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**Hearing Before the  
Subcommittee on Communications  
Committee on Commerce, Science, and Transportation  
United States Senate**

**March 25, 1999**

**Written Testimony of Richard Vos, Head of International Satellite Consortia for British Telecommunications plc.**

My name is Richard Vos, and I am the Head of International Satellite Consortia on behalf of British Telecommunications plc ("BT") of the United Kingdom. I am responsible for BT's satellite equity investments<sup>1</sup> and the UK Signatory Affairs Office ("SAO").<sup>2</sup> I am also serving currently as the elected Chairman of the Board of Governors of the International Telecommunications Satellite Organization, INTELSAT.<sup>3</sup> I appreciate having the opportunity to submit written testimony regarding S. 376, the "Open-market Reorganization for the Betterment of International Telecommunications Act," on the record of this proceeding.

I believe that on behalf of BT, the UK Signatory to INTELSAT, I can provide a valuable perspective regarding the successful implementation of INTELSAT direct access in the UK since 1994. Moreover, as the representative of the INTELSAT Signatory that initiated the privatization process and as a member of the INTELSAT Board of Governors, I believe that I can provide useful information regarding the process of privatization. Finally, I would like to express BT's opposition to S. 376 in its current form, both from its perspective as an INTELSAT member and UK Signatory, and as a carrier in the U.S. market through BT's wholly-owned subsidiary, BT North America Inc. ("BTNA").

**Implementing Direct Access in the UK Has Resulted in Significant Pro-competitive Benefits and Has Strengthened BT's Ambition to Privatize INTELSAT.**

The UK successfully implemented Level 4 direct access in 1994. UK operators now deal directly with INTELSAT for their capacity needs, paying the same INTELSAT Utilization Charge ("IUC") as Signatories, including BT. This arrangement is open to all licensed entities. As operators benefiting from this arrangement also invest in INTELSAT according to their usage,<sup>4</sup> they not only pay the flat IUC but receive a return on investment on the same basis as a Signatory.

<sup>1</sup> BT currently has equity investments in INTELSAT, Inmarsat, EUTELSAT, I-CO, and New Skies Satellites.

<sup>2</sup> The SAO was created in 1989 to allow UK-licensed entities to access INTELSAT, Inmarsat and EUTELSAT capacity. The SAO charges a flat fee mark-up over the basic consortium utilization charge (currently 7%) and is separate from BT's commercial operations. The SAO closed for INTELSAT business in 1994 upon the introduction of full and open 'level 4' direct access.

<sup>3</sup> The views expressed in this testimony are solely those of BT and are not intended to reflect the views of the INTELSAT Board of Governors.

<sup>4</sup> Under the INTELSAT direct access arrangements, operators have the option to request increases and decreases to their basic utilization driven shareholding at the time of an INTELSAT investment share redetermination.

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Direct access has reduced the costs of INTELSAT access in the UK far below equivalent charges in the United States. Competition in the UK satellite services market has been significantly increased. At the present time, INTELSAT has around 20 UK entities buying capacity under this arrangement, including a subsidiary of Comsat and a number of other U.S.-owned companies. BT has no role in or visibility of this process, nor does it make or receive payments for or on behalf of any of these entities.

Under an arrangement such as this, there is no room for companies to charge the mark-ups over the IUC that U.S. carriers experience from Comsat. Prices for INTELSAT capacity in the UK, and for services delivered using INTELSAT capacity, are determined solely by what the market will bear.

BT has long believed that the concept of the INTELSAT Signatory acting as the single conduit for those wanting access to capacity is wholly inconsistent with competitive market principles. Furthermore, the UK has long believed that INTELSAT should become more commercial, both to allow it to compete with commercial systems and because the current structure is outdated. In no sense do we feel that implementation of direct access is the end of the privatization process; to the contrary, BT sees implementation of direct access in the UK as a logical and important step towards privatization.<sup>5</sup>

#### **INTELSAT Is Moving Swiftly Toward Privatization.**

I believe that there is a clear understanding and acknowledgement among INTELSAT's stakeholders that the organisation must change. At its March 1999 meeting, the INTELSAT Board of Governors instructed the INTELSAT management to perform an in-depth analysis of specific options for changing INTELSAT from an intergovernmental organisation into a private company. INTELSAT management is led by Mr. Conny Kullman, Director General and Chief Executive Officer, who was elected by the INTELSAT Board last year on a clear pro-privatization platform. The INTELSAT Board of Governors will be making formal recommendations regarding privatization to the next meeting of the Assembly of Parties in October 1999.

One of the most important aspects of the privatization process is to develop a mechanism to ensure that INTELSAT's lifeline connectivity obligation can be guaranteed under a private company structure. INTELSAT's role in connecting the world is widely recognized and is of vital importance for substantially all of INTELSAT's Signatories, including BT, and the major U.S. carriers. The principle of continuity of existing services is another critical element. It will not be possible to restructure INTELSAT if this results in existing services being terminated due to difficulties over landing rights. For these reasons, any privatization scheme will necessarily include a mechanism to guarantee INTELSAT's lifeline connectivity obligation.

These and other issues will be discussed intensively over the coming months and will form part of the Board's recommendations to the Assembly of Parties later this year. BT's ambition is that the Board should present a comprehensive package of recommendations to the Assembly of Parties in October 1999 to allow implementation of the chosen way forward during 2000.

#### **BT Opposes S. 376, the Open-Market Reorganization for the Betterment of International Telecommunications Act, in Its Current Form.**

The following views are given in the context of BT's position as a substantial investor in INTELSAT and as a user of INTELSAT capacity in the United States, both directly and via our partners.

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<sup>5</sup> We actively participated in the FCC's recent direct access proceeding, IB Docket No. 98-182, File No. 60-SAT-ISP-97, and we would respectfully refer you to the comments we filed in that proceeding for a more extensive discussion of our experience in the UK.

**1. The Current Language in the Bill May Delay the INTELSAT Privatization Process.** INTELSAT was created by international negotiations involving vision, ambition and compromise. Likewise, reform of INTELSAT can only be achieved through international negotiation and agreement. Change will happen when the concerns and ambitions of INTELSAT's members are understood and have been fully debated and taken into account during negotiations. As noted above, significant progress has already been made in this privatization process.

The U.S. played the leading role in the creation of INTELSAT and it is appropriate for it to do likewise in the reform process. Indeed, this process would be much the poorer were there to be a lack of ideas and ambition from INTELSAT's members. However, I respectfully submit that the "carrot and stick" structure of the bill, wherein direct access is the carrot held out and given only once appropriate privatization has been achieved, has no place in a process such as INTELSAT reform. The use of approaches such as these may well have the opposite effect of Congress's purpose and result in a delay of privatization.

BT strongly believes that implementation of direct access in the United States would send a positive signal to INTELSAT members regarding the whole privatization process. With over 90 countries having already implemented some form of direct access, there is considerable confusion around the world regarding the apparent reticence of the United States to do likewise. The overall U.S. policy approach and recent WTO commitments favoring open markets and competitive provision of telecommunications facilities and services only serve to underline this confusion.

**2. The Bill Erroneously Makes a Link Between Privatization and Direct Access.** The bill is based on an inaccurate premise, namely that the privatization of INTELSAT and implementation of direct access are related. Direct access and privatization are separate issues and should not be tied together.

We are not aware of any evidence suggesting that these two issues are linked in the minds of any other INTELSAT Signatory or Party. Direct access in the UK market has actually strengthened BT's commitment to INTELSAT privatization, and we remain keen to have INTELSAT operating on a normal commercial basis. BT's resolve to privatize INTELSAT as soon as possible would not be weakened by the introduction of direct access in the United States.

I am keen also to take this opportunity to dispel the notion that direct access is somehow equivalent to giving INTELSAT market access in the United States. This is manifestly not the case. INTELSAT does not, nor can it under its current structure, offer satellite services to consumers. INTELSAT is permitted only to sell satellite capacity to others for the offering of services. Under a direct access regime, the FCC would continue to control licensing. Implementing direct access, which can now be done appropriately and simply under the existing INTELSAT direct access framework, will simply mean that prices for INTELSAT capacity in the United States will be reduced dramatically. In the UK, this has also resulted in lower prices for consumers, and there should be no reason that this model would not also apply in the United States.

Regarding future access to the U.S. market for INTELSAT as a private company, BT fully accepts and anticipates that the United States would wish to apply the concept of a level playing field between INTELSAT and other commercial satellite companies. Should INTELSAT not comply with prevailing competition laws or other criteria, then it should not enjoy U.S. market access. However, a presumption in favor of access for INTELSAT in the future would confer enormous good will and would, in my judgment, be a very positive contribution to the privatisation process. Such a presumption is clearly in place for the UK situation.

**3. "Privatization" Should Be Defined by an Objective Event.** If the bill does eventually go forward with privatization as a condition precedent to direct access, there should at least be a clear, objective event (i.e., definition of privatization) that triggers direct access. Specifically, the event of "privatization" should be defined as having occurred when a final vote of approval of privatization by the INTELSAT Assembly of Parties is passed wherein the legal structure and characteristics of the privatized INTELSAT are created.

This would mean that this clearly defined event -- and not a governmental certification -- would trigger direct access.

**4. The Proposed Certification Process Is Flawed.** Finally, if Congress would require certification of privatization, such certification must at the very least be done through a public, transparent, and objective process based on clear criteria, within a strict timeframe, and subject to judicial review. The current version of the certification process and factors for consideration would allow debate to go on behind closed doors and endlessly, such that direct access may not be allowed for years even after INTELSAT is privatized.

BT believes that a public, transparent, and objective process in which interested persons are able to express their views, a statutory deadline, and judicial accountability would help to cure these deficiencies. Also, BT believes that the Federal Communications Commission is the proper authority to perform the certification process.